

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

725B0527

HOUSE COMMERCE COMMITTEE

ENGROSSED NO. **HB1153** - 2/6/98

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representative Kredit and Senator Shoener

1 FOR AN ACT ENTITLED, An Act to provide for the succession to a vehicle dealership by a
2 legal heir or devisee.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The owner of a vehicle dealership may appoint by trust, will, or any other valid written
7 instrument a successor to the owner's dealership interest upon the owner's death or incapacity.

8 Unless the franchisor has good cause to refuse to honor the succession, the successor may
9 succeed to the ownership of the dealership under the existing franchise if:

10 (1) Within ninety days of the owner's death or incapacity, the successor gives written
11 notice of the successor's intent to succeed to ownership of the dealership; and

12 (2) The successor agrees to be bound by all the terms and conditions of the franchise
13 agreement with the prior owner.

14 Upon request, the successor shall promptly provide the franchisor evidence of the
15 successorship appointment, as well as personal and financial information reasonably necessary

1 to determine whether the succession should be honored by the franchisor.

2 Section 2. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If a franchisor believes that good cause exists to refuse to honor the intended succession
5 under section 1 of this Act, the franchisor shall serve the named successor written notice of
6 refusal to honor the intended succession within sixty days of its receipt of the notice of intended
7 succession, or within sixty days of receiving the information requested pursuant to section 1 of
8 this Act, whichever is later. The notice shall contain specific grounds for the refusal to honor the
9 succession.

10 If the notice of refusal to honor the intended succession is not timely served upon the
11 intended successor, the successor may continue the franchise subject only to termination as
12 otherwise permitted in this chapter.

13 In determining whether good cause exists for the refusal to honor the intended succession,
14 the franchisor has the burden of proving that the intended successor is not a person of good
15 moral character or does not meet the franchisor's existing and reasonable standards. Good cause
16 for refusal to honor succession does not include the owner's dealership being dualled with another
17 franchisor's line.

1 **BILL HISTORY**

2 1/20/98 First read in House and referred to Commerce. H.J. 126

3 2/5/98 Scheduled for Committee hearing on this date.

4 2/5/98 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 398